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1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 41.040. Cigarette [Subjobbers,] vending machine operators[and unclassified
5 acquirers].

6 RELATES TO: KRS 138.130, 138.195

7 STATUTORY AUTHORITY: KRS 131.130[(+)], 138.195

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department
9 of Revenue to promulgate administrative regulations for the administration and enforcement of
10 Kentucky tax laws. This administrative regulation, under authority of KRS 138.195, outlines
11 license requirements for cigarette vending machine operators. [interprets the statute and outlines
12 ~~procedures for securing cigarette subjobber license, cigarette vending machine operator license and~~
13 ~~cigarette unclassified acquirer license.~~]

14 Section 1. [Application for Cigarette Subjobber License. (1) Any person desiring to secure a
15 license as a subjobber of cigarettes on which tax evidence has been previously affixed must file an
16 application with the Department of Revenue, Frankfort, Kentucky, on forms prescribed by the de-
17 partment. A separate application must be filed for each place of business from which tax-paid ciga-
18 rettes are made available to retailers. The application must state the name and address of the busi-
19 ness, the nature of the business, the owners or principal officers, the names of other states in which
20 the applicant intends to distribute cigarettes, and include a list of at least five (5) Kentucky retail loca-
21 tions with whom the applicant has made firm arrangements to regularly supply Kentucky tax-paid

1 cigarettes for resale in the regular course of business. If the applicant is a nonresident of the state,
2 the name of a process agent must be designated.

3 (2) Upon issuance by the Department of Revenue, the license must be displayed in the place of
4 business for which the license was issued.

5 Section 2. Application for Cigarette Vending Machine Operator License. (1) Any person responsi-
6 ble for stocking a vending machine with cigarettes and accounting for receipts from the sale thereof
7 must file an application for a license as a vending machine operator. The application must be filed
8 with the Department of Revenue, Frankfort, Kentucky, and must state the name and principal ad-
9 dress of the business, the nature of the business, the owners or principal officers, the approximate
10 number of machines to be operated, the area of Kentucky in which the machines will be operated,
11 and the names of other states in which cigarettes are to be distributed by the applicant.]

12 (2) Upon issuance of a cigarette vending machine operator's license by the Department of
13 Revenue, the license shall[must] be retained at the principal address of the vending machine
14 operator. If a change of address occurs, written notification shall[must] be given the department.
15 The license number along with the name and address of the operator shall[must] be affixed to
16 each machine in operation in such a manner as to be visible at the time of the purchase of
17 cigarettes.

18 [Section 3. Application for Cigarette Unclassified Acquirer License. (1) Any person desiring to
19 secure a license as an unclassified acquirer of cigarettes must file an application with the Department
20 of Revenue, Frankfort, Kentucky, on forms prescribed by the department. The application must state
21 the name and address of the person receiving the untax paid cigarettes, the nature of the business
22 conducted by the applicant, the anticipated source of supply for cigarettes, and the intended
23 distribution of any cigarettes to be received.

1 ~~(2) Upon issuance by the Department of Revenue, the license must be retained at the address given~~
2 ~~on the application. If the unclassified acquirer has a change of address, written notification must be~~
3 ~~given the cabinet.]~~

103 KAR 41:040

APPROVED BY AGENCY:

Daniel Bork
DANIEL P. BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

Oct 10, 2019
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on December 27, 2019, at 10:00 a.m. in Room 9B, State Office Building, 501 High Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 41:040

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative amendment regulation outlines license requirements for cigarette vending machine operators.

(b) The necessity of this administrative regulation: The amendment is necessary under KRS 138.195 4(e) which requires the Department to specify the manner in which the information shall be affixed to the vending machine.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 13A, KRS 131.130, KRS 131.131 and KRS 138.195.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language no longer needed due to the filing of the new 103 KAR 4:220 regulation. This will provide more clarity to the licensee holders.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment adds KRS 138.195 to the "STATUTORY AUTHORITY" section and removes language in Sections 1, 2, and 3 that were no longer needed due to the filing of 103 KAR 41:220.

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 200+ licensed businesses will be affected.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions are required as a result of this amendment. Existing requirements were not changed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amended regulation will allow for more clarity to the taxpayers allowing for better compliance.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no expected costs to implement the proposed amendment. Current staff and budgeted funding will absorb the implementation of this administrative regulation.

(b) On a continuing basis: There is no cost expected on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current departmental staff and funding will be used to implement and enforce this proposed amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional funding or increase in fees is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering is not applicable as the proposed amended regulation will be applied equally to all entities impacted by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 41:040

Contact Person: Lisa Swiger
Phone Number: (502) 564-9526
Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A, KRS 131.130, KRS 131.131 and KRS 138.195.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No new revenues are expected to be generated by the provisions of this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect. Any costs will be incurred as normal operating expenditures of the Department of Revenue.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: